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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT ALAN HUMPHREYS,

Defendant and Appellant.

C084402

(Super. Ct. No. 16CF03955)

Appointed counsel for defendant Robert Alan Humphreys has filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*)). After reviewing the record, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On August 21, 2016, defendant was “hang[ing] out” with his girlfriend in a condemned house, getting high on heroin and one gram of methamphetamine. Defendant was “rushing,” or feeling “amped up.” Police arrived, and defendant grew anxious and

began searching for a way out. He jumped through a back window and over a fence, and began to run.

Officers instructed defendant to stop and chased him when he failed to comply. Defendant was climbing a fence when the officers caught up to him, and one of the officers shot him with a Taser, causing him to fall to the ground. Defendant was handcuffed, arrested, and transported to a local hospital for treatment. While he was being treated, defendant ran out of the emergency room. An officer caught up to him outside the hospital, and defendant was transported to jail. At trial, defendant testified he was still feeling the effects of the drugs at the hospital and while he was booked into jail.

Defendant was charged with escape (Pen. Code, § 4532, subd. (b)(1); count 1),¹ misdemeanor trespass (§ 602, subd. (m); count 2), and misdemeanor resisting a peace officer (§ 148, subd. (a)(1); count 3). With respect to count 1, it was further alleged defendant had two prior prison terms. (§ 667.5, subd. (b).)

In January 2017, a jury convicted defendant of all counts. In bifurcated proceedings, the trial court found true defendant had two prior prison terms.

In March 2017, the trial court sentenced defendant to state prison for an aggregate term of five years, as follows: three years (the upper term) for count 1, plus two years for the two prior prison terms, six-months concurrent in county jail for count 2 (§ 602, subd. (m)), and one-year concurrent in county jail for count 3 (§ 148, subd. (a)(1)). The trial court imposed a \$300 restitution fine (§ 1202.4, subd. (b)) and a corresponding \$300 parole revocation fine, suspended unless parole is revoked (§ 1202.45). In addition, the trial court imposed a \$120 court security fee (§ 1465.8) and a \$90 conviction assessment fee (Gov. Code, § 70373). The trial court awarded 249 days of custody credit (125 actual days and 124 days conduct credit).

¹ Undesignated statutory references are to the Penal Code in effect at the time of the charged offenses.

The trial court also sentenced defendant to one-year concurrent in county jail in case No. CM043448 (§ 273.5, subd. (f)), one-year concurrent in county jail in case No. SCR104155 (§ 148, subd. (a)(1)), and one-year concurrent in county jail in case No. SCR105278 (§ 273.6). The trial court also imposed various fines and fees in each of these cases, including a \$150 restitution fine (§ 1202.4, subd. (b)), a corresponding \$150 parole revocation fine, suspended unless parole is revoked (§ 1202.45), a \$40 court security fee (§ 1465.8), and a \$30 conviction assessment fee (Gov. Code, § 70373).

DISCUSSION

Appointed counsel filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no such communication from defendant.

We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

/s/
MURRAY, J.

We concur:

/s/
HULL, Acting P. J.

/s/
BUTZ, J.